REMARKS/ARGUMENTS

This Amendment is in response to the Office Action mailed September 18, 2008. In that Office Action, Claim 22 was rejected under 35 U.S.C. § 103(a) as obvious in light of U.S. Published Patent Application No. 2001/0025275 to Tanaka et al. ("*Tanaka*"), and Claims 23-25 were rejected under 35 U.S.C. § 103(a) as obvious in light of *Tanaka* in view of U.S. Published Patent Application No. 2003/0097306 to Boucher et al. ("*Boucher*"). The rejections are addressed below. For the Examiner's reference, Claims 8-13 were previously withdrawn from consideration, Claims 1-7 and 14-21 were previously canceled, Claim 22 has been amended, and Claim 26 has been added as new. Following this Amendment, Claims 22-26 remain pending in the present application for consideration by the Examiner.

Claim Rejections – 35 U.S.C. § 103

The Examiner has rejected Claim 22 under 35 U.S.C. § 103(a) as obvious in light of U.S. Published Patent Application No. 2001/0025275 to Tanaka et al. ("*Tanaka*"), and Claims 23-25 under 35 U.S.C. § 103(a) as obvious in light of *Tanaka* in view of U.S. Published Patent Application No. 2003/0097306 to Boucher et al. ("*Boucher*"). The rejection of each claim is addressed below.

Independent Claim 22

The Examiner has rejected independent Claim 22 as obvious in light of *Tanaka*. Applicant respectfully submits that *Tanaka* fails to teach or suggest each and every limitation of Claim 22. For example, Claim 22 recites "***restricting access of the user terminal to a set of IP addresses associated with the website server at the gated network access system***."

Applicant notes that *Tanaka* discloses a system that provides Internet connection service through a plurality of access points that operate through telephone lines. *See* ¶ [0084]. A user connects to one of these access points via a modem to receive Internet connection service. *See* ¶ [0085] – [0086]. The system then calculates a telephone connection fee based on the signal source of the telephone number used by the user and charges the user a total Internet connection

fee based on the telephone connection fee. *See* ¶ [0080].

On Page 3 of the Office Action, the Examiner asserts that paragraphs [0069] and [0182] of *Tanaka* disclose restricting access of a user terminal to a set of IP addresses associated with a website server; however Applicant respectfully disagrees. Paragraph [0069] describes FIG. 16 of *Tanaka*, which is a drawing showing an example of access point information. Specifically, this information includes the names for access points provided to terminal servers to which users connect to gain Internet service, the telephone numbers assigned to the access points, and the locations of the access points. *See* ¶ [0161] and FIG. 16. Thus, this information is associated with providing users with access to Internet service, not restricting access to Internet service.

Paragraph [0182] discusses a "preference determination section" that is connected to a category information storage section for storing category information for various URL's. The preference determination section applies a URL accessed by a particular user to the category information to determine a category to which the URL accessed by the user belongs. *See* ¶ [0182].

As a result, the preference determination section outputs a determination result used as source data by a content distribution section to distribute contents according to the user's preferences. *See* ¶ [0184] – [0186]. The contents include various multimedia digital contents such as document files, sound files, image files, and the like. *Id.* The primary usage of the contents is for ***advertising***. *Id.*

Thus, the "preference determination section" of paragraph [0182] determines targeted contents for a particular user for advertising purposes. This section does not restrict the user's access to specific contents on the Internet, but rather decides which contents are "pushed" to the user. As a result, *Tanaka* fails to teach or suggest "***restricting access to the user terminal to a set of IP addresses associated with the website server at the gated network access system.***"

In addition, Applicant notes that Claim 22 recites "***charging an owner or operator of the website server using a billing system of the ISP for the connection to the website server via the gated network access system, the owner or operator of the website server not being the user of the user terminal.***"

On Page 3 of the Office Action, the Examiner states that *Tanaka* does not specifically

teach the party who pays for the Internet service is an owner or operator of the website server. However, the Examiner explains that *Tanaka* explicitly states "it is possible to bill a company or the like which pays for the Internet connection service used by the member." Therefore, the Examiner contends it would have been obvious to allow the party who pays for the Internet service in *Tanaka* to be the owner or operator of the website server for promoting the user to access the website server. Applicant respectfully disagrees.

"[R]ejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." *See* MPEP 1243.01 IV quoting *KSR International Co. v. Teleflex Inc.*, 127 S.Ct. 1727, 1741 (2007) quoting *In Re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006). Applicant agrees that *Tanaka* discusses circumstances in which another party may pay for Internet connection for a user, such as an employer paying for Internet connection for its employees. However, Applicant respectfully disagrees that the teaching of *Tanaka* suggests that the third party is the owner or operator of the website associated with the restricted IP addresses. Applicant notes that this is an important distinction over the prior art because the third party is paying for a user's Internet connection, not because of the third party's relationship with the user as suggested in *Tanaka*, but because of the third party's relationship with the content that is accessible by the user, *i.e.*, the third party's website server.

As the Court further opined in *KSR*, "[a] factfinder should be aware, of course, of the distortion caused by hindsight bias and must be cautious of argument reliant upon ex post reasoning." *KSR* at 1742. In this case, the Examiner is using a problem addressed and articulated in the current application as the underlying reasoning that the general teaching of *Tanaka* would have suggested at the time the invention was conceived to have the owner or operator of the website server pay for Internet connection for a user. As pointed out in paragraph [0005] of Applicant's specification as filed, "a substantial hurdle in providing user access to an e-commerce resource such as a website of an electronic retailer is the subscription fee of an internet service provider (ISP)." Therefore, if a user cannot afford Internet access the electronic retailer (e.g., owner or operator of the website server) is missing out on potential customers. Various embodiments of Claim 22 address this problem by establishing a billing relationship

with the ISP so that the owner or operator of the website server pays for the user's access to the Internet via the ISP, and therefore helps to establish more customers for the carrier.

Therefore, Applicant contends that the Examiner has applied hindsight in light of the problem discussed and addressed in the Applicant's own application in arguing that *Tanaka* suggests "***charging an owner or operator of the website server ... for the connection to the website server.***" Applicant respectfully submits that the general statement made in *Tanaka* does not render such a relationship obvious.

For these reasons, Applicant respectfully submits that *Tanaka* fails to teach or suggest each and every limitation of independent Claim 22. Accordingly, Applicant respectfully requests the Examiner to withdrawn the current rejection of this Claim.

Dependent Claims 23-25

Claims 23-25 depend from independent Claim 22 and therefore include all the limitations of Claim 22 plus additional limitations that further define the invention over the prior art. Accordingly, for at least the reasons set forth above in regard to independent Claim 22, Applicant respectfully submits that these claims are also in condition for allowance.

New Claim 26

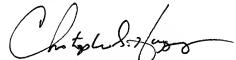
Applicant has added new Claim 26. Specifically, this claim recites that "***the owner or operator of the website provides the user with the user terminal.***" Support for this claim can be found in paragraph [0025] of the application as filed. Applicant respectfully submits that this claim is in condition for allowance for at least the reason that it depends from allowable Claim 22, and also because it includes additional limitations that further define the invention over the prior art.

CONCLUSION

The foregoing is submitted as a full and complete response to the Office Action mailed September 18, 2008. The foregoing amendments, when taken in conjunction with the appended remarks, are believed to have placed the present application in condition for allowance, and such action is respectfully requested. The Examiner is encouraged to contact Applicant's undersigned attorney at (404) 881-7640 or e-mail at chris.haggerty@alston.com to resolve any remaining issues in order to expedite examination of the present application.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,



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ELECTRONICALLY FILED USING THE EFS-WEB ELECTRONIC FILING SYSTEM OF THE UNITED STATES PATENT & TRADEMARK OFFICE ON November 6, 2008